

AGENDA**BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES****ASSEMBLYMEMBER HOLLY MITCHELL, CHAIR****THURSDAY, MAY 26, 2011****STATE CAPITOL ROOM 444
UPON ADJOURNMENT OF SESSION**

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VOTE ONLY ITEMS

4265 DEPARTMENT OF PUBLIC HEALTH

ISSUE 1: LEAD POISONING GENERAL FUND REPAYMENT (VOTE ONLY)

May Revise Proposal

The DPH requests approval for repaying \$3.1 million to the General Fund from the Childhood Lead Poisoning Prevention Fund. This repayment is for the remainder of a \$9.1 million General Fund loan to the Childhood Lead Poisoning Prevention Program in 1996-97.

Background

The March 2011 budget package adopted a \$6 million repayment of this loan to the General Fund. At that time, the Legislature asked the DPH to explore the availability of additional funds to repay this loan. This \$3.1 million proposal is the result of that request. The Childhood Lead Poisoning Prevention Program is a fee supported program that has a fund balance of fee revenue that is sufficient to repay the General Fund for the General Fund support provided in the program's first year of operation, prior to the collection of fee revenue.

Staff Recommendation: Approve as proposed

ISSUE 2: PROPOSITION 99 ADJUSTMENTS (VOTE ONLY)

May Revise Proposals

There has been an increase in tax revenue from cigarette and other tobacco sales. Specifically, Proposition 99 revenues are now projected to increase by \$1 million for 2011-12. Therefore, the May Revise proposes the following adjustments to Proposition 99-funded programs within the DPH:

- Increase of \$749,000 for the DPH, including \$672,000 for the California Health Information Survey (approved by the Legislature in March 2011).
- Increase of \$173,000 for tobacco cessation media campaigns and \$68,000 for tobacco education programs.
- Increase of \$137,000 for tobacco related research by the University of California and \$56,000 for research within the DPH.

Staff Recommendation: Approve as proposed

4440 DEPARTMENT OF MENTAL HEALTH

ISSUE 1: TECHNICAL ADJUSTMENT TO REIMBURSEMENTS (VOTE ONLY)***May Revise Proposal***

The May Revise requests approval of a technical correction to an inadvertent oversight in budget trailer bill, AB 100 (March 2011), which funded the Mental Health Managed Care and Early, Periodic, Screening, Diagnosis, and Treatment programs with Mental Health Services Act (Propositions 63) funds. Both of these programs are Medi-Cal programs and therefore qualify for federal financial participation (FFP) at the usual Medi-Cal state-federal match rate. Within the DMH, federal financial participation is referred to as “reimbursements.” AB 100 failed to make necessary technical adjustments to the Budget Act necessary for the state to continue to receive FFP as a match to Proposition 63 funds for these programs in 2011-12 year. The May Revise makes the necessary technical adjustments to avoid this unintended consequence.

Staff Recommendation: Approve as proposed

ISSUE 2: LEGAL RESOURCES REQUEST (VOTE ONLY)***Governor's January Proposal***

The DMH is requesting an augmentation of \$2,151,000 in General Fund for legal services to be performed by the Attorney General's Office (AGO) for DMH regarding Health Education and Welfare work (HEW) and all new Torts and Condemnation work. This Subcommittee heard this issue on January 26, 2011 and again on May 4, 2011. At the May hearing, a representative of the Attorney General testified and confirmed that this is in fact how the Attorney General's Office is handling the provision of legal services to other state departments.

Background

Historically, the AGO has provided legal representation to the DMH, and other State Departments, for litigation and court appearances. In September of 2009, the AGO informed DMH of policy changes that would substantially reduce the amount of legal services provided by the AGO to DMH as a result of reduced resources within the AGO. In the spring of 2010, the Administration requested 6 new legal positions at a cost of \$3,076,000 General Fund to respond to the reduction in representation by the AGO. The Legislature instead approved of \$1.2 million in funding and budget bill language requiring the AGO to provide all necessary legal representation to DMH.

The Administration states that the AGO has informed DMH that it does not have sufficient resources to handle all of the HEW workload and tort costs. The DMH states that if sufficient funding is not provided, the DMH will be subject to serious and significant legal consequences, such as default judgments up to millions of dollars; court findings that carry fines and expose the DMH Director to contempt findings; and DMH hospitals being unable to obtain court authority for involuntary medication or medical treatment that psychiatrists or physicians have found necessary for the patients.

The Administration explains that there are several state departments that used to benefit from legal representation from the AGO, for which the AGO has reduced or eliminated legal services. All of these departments are therefore faced with this new challenge and have undertaken requests for approval for funding which will be transferred to the AGO by the departments in exchange for these same legal services.

Staff Recommendation: Approve as budgeted

ITEMS TO BE HEARD

2400 DEPARTMENT OF MANAGED HEALTH CARE

ISSUE 1: FEDERAL GRANT FUNDS FOR IMPLEMENTATION OF FEDERAL HEALTH CARE REFORM
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May Revise Proposal

The Department of Managed Health Care (DMHC) requests authority to reappropriate \$3.9 million in federal funds from 2010-11 to 2011-12 for the Consumer Assistance Program Federal Grant.

Background

In October of 2010, as a part of federal health care reform, the DMHC applied for and was awarded a Consumer Assistance Program Grant of \$4.2 million. The Department of Finance submitted a Section 28.0 notice to the Legislature in December of 2010 in order to spend these funds in the current year. The DMHC will not be able to fully implement the program and encumber all of the funds by the end of the current fiscal year (June 30, 2011), and therefore is requesting this reappropriation of the \$3.9 million balance in the funds, which will be encumbered by June 30, 2012.

The Consumer Assistance Program Grant funds are being used to update and enhance the Healthcare.ca.gov website and to promote a consumer education campaign, including translations of website content, recruitment of community based organizations to perform outreach efforts, and utilization of social networks to improve consumer education and outreach related to federal health care reform.

Staff Recommendation: Approve as proposed

ISSUE 2: CONSUMER PARTICIPATION PROGRAM SUNSET EXTENSION

Proposal

Healthcare consumer advocates have requested that the sunset on the Consumer Participation Program, operated by the DMHC, be eliminated.

Background

The Consumer Participation Program was created through SB 1092 (Byron Sher, Statutes of 2002) to compensate consumer advocacy organizations for their substantial contributions of time and expertise to regulatory proceedings of the department. Such organizations have made substantial contributions to the development of rate review, implementation of “guaranteed issue” for children, development of first-in-the-nation regulations on language access for commercial health plans, development of prescription drug benefits standards, and more. The program is funded with licensing fee revenue and is capped at \$350,000 annually.

The program originally contained a sunset of 2006, which was extended through budget trailer bill to January 1, 2012. Consumer advocates state that there is no reason to reinstate the sunset at a later date, particularly in light of the increasingly important role for both the department and consumer advocacy organizations in the implementation of federal health care reform.

Staff Recommendation: Adopt trailer bill to extend the sunset from January 1, 2012 to January 1, 2018.

4265 DEPARTMENT OF PUBLIC HEALTH

ISSUE 1: AIDS DRUG ASSISTANCE PROGRAM (ADAP) ESTIMATE

The ADAP provides HIV/AIDS drugs for individuals who could not otherwise afford them (up to \$50,000 annual income). Drugs on the ADAP formulary slow the progression of HIV disease, prevent and treat opportunistic infections, and treat the side effects of antiretroviral therapy. The May Revise estimate proposes funding for the budget year of \$503.6 million (\$25.1 million more than the current year). The General Fund appropriation is \$82.6 million (\$28.2 million more than the current year). This estimate closely mirrors the January estimate, however assumes a \$21 million General Fund decrease (over the January budget estimate) due to the following:

- Decreased expenditure estimates;
- Reduced reimbursement to the Pharmacy Benefits Manager and Pharmacy network;
- New resources of \$74.1 million from the Safety Net Care Pool which offsets General Fund;
- Anticipated new federal resources of \$3 million from HRSA which offsets General Fund; and
- Expansion of CARE/HIPP and establishment of PCIP premium payments.

Most of these changes were adopted in the Legislature's March 2011 budget package.

Staff Recommendation: Approve ADAP May Revise Estimate

ISSUE 2: LICENSING & CERTIFICATION ESTIMATE

The DPH Licensing and Certification (L&C) Program licenses, regulates, inspects and certifies healthcare facilities in California. L&C is responsible for ensuring health care facilities comply with state laws and regulations. The L&C cooperates with CMS to ensure that facilities accepting Medicare and Medi-Cal payments meet federal requirements, and oversees the certification of nurse assistants, home health aides, hemodialysis technicians, and the licensing of nursing home administrators. The cost of the program is estimated to be \$129.5 million, funded by federal funds, special funds, and reimbursements. The May Revise closely mirrors the November estimate and only makes minor adjustments, resulting in the same total cost for the program.

Staff Recommendation: Approve L&C May Revise Estimate

ISSUE 3: EVERY WOMAN COUNTS ESTIMATE

The Every Woman Counts (EWC) program is a quality improvement and outcome-driven public health program that serves to raise the quality and accessibility of cancer screening services for low-income, underserved women. The mission of the program is to reduce breast and cervical cancer deaths. Historically the program was funded entirely by tobacco tax revenue, until 2010 when a General Fund augmentation was added to address the growing deficiency in the program resulting from decreasing tobacco tax revenue. The May Revise estimate proposes total funding of \$57.8 million, which closely mirrors the November estimate, though includes a \$9.4 million General Fund decrease which reflects the following:

- A one-time \$2.2 million tobacco tax revenue augmentation from the Breast Cancer Fund (discussed in more detail under issue 5 in this agenda) which replaces General Fund; and,
- \$7.2 million General Fund savings assumed as a result of a 10 percent Medi-Cal provider rate reduction adopted in the March budget package.

Staff Recommendation: Approve EWC May Revise Estimate

ISSUE 4: WOMEN, INFANTS, AND CHILDREN (WIC) STATE OPERATIONS

May Revise Proposal

The DPH requests an increase in State Operations expenditure authority of \$7.6 million Federal Funds for 2011-12 to bring the program's total State Operations expenditure authority to \$53.9 million. This additional expenditure authority will allow the WIC program to spend Federal Funds in the WIC program and meet federal requirements.

Background

The WIC Program is a 100 percent federally funded program that the DPH administers through grants with 84 local agencies which provide WIC services to eligible women, infants, and children under the age of five, including nutrition education and breastfeeding promotion, checks to purchase food at WIC food stores, and referrals to health and social services. The DPH explains that the federal government offers very little flexibility in terms of how these increased funds are to be spent and that they must be spent in ways that help the state meet federal WIC requirements. The funds will support: Electronic Benefits Transfer Planning; Special Project for Toddler Behavior Research; and several critical state contracts with other state agencies related to various aspects of the WIC program.

Staff Recommendation: Approve as proposed

ISSUE 5: BREAST CANCER FUND DISTRIBUTION***May Revise Proposal***

The DPH requests a one-time transfer of a \$4.4 million reserve from the Breast Cancer Fund (BCF) to be divided equally between the Breast Cancer Research Account (BCRA) and the Breast Cancer Control Account (BCCA). The DPH also requests authority to make a one-time \$86,000 reduction in BCRA expenditure authority for 2011-12 to reflect steadily decreasing tobacco tax revenue.

Background

In 1993, AB 478 (Barbara Friedman, Chapter 660, Statutes of 1993) instituted a two-cent per pack tax increase on cigarettes to establish the Breast Cancer Control Program. The BCF was established to collect this revenue, and the statute stipulated that the funds were to be divided approximately equally between two subaccounts – the BCRA and the BCCA. The BCCA funds the Every Woman Counts Program (aka: the Breast Cancer Early Detection Program), that provides breast and cervical cancer screening to low-income un- and under-insured women. The BCRA funds cancer research through the California Cancer Registry (10%) and the University of California (90%).

The \$4.4 million reserve in the Breast Cancer Fund is the result of revenues from the Income and Surplus Money Investments Fund (i.e., interest earned on the BCF funds) that have accumulated since the year 2000. State statute requires all BCF funds to be distributed and therefore the account should not maintain a balance from year to year.

This one-time increase of \$2.2 million for the BCCA will offset General Fund expenditures in the Every Woman Counts Program. For the BCRA, this increase will allow the University of California to reduce its expenditures by \$2.3 million rather than the originally planned reduction of \$4.5 million.

Staff Recommendation: Approve the one-time transfer of funds and the reduction in expenditure authority

ISSUE 6: IMMUNIZATION REQUEST

May Revise Proposal

The DPH requests restoration of \$7.3 million (of \$18 million) General Fund for 2011-12 to purchase vaccines for low-income, uninsured Californians. These funds were eliminated in the Budget Act of 2010.

Background

For more than 30 years, State Budget Acts have provided up to \$7.3 million General Fund per year to support a statutory mandate that the DPH purchase influenza vaccines for local health departments to protect their elderly and other vulnerable populations. Immunizations result in significant cost-savings because they prevent illness and death and associated health care and lost productivity costs. Prior to 2010, the budget included \$18 million for vaccine purchasing, the vaccine registry, and vaccination outreach efforts. These funds were eliminated in the 2010 Budget Act. The impact of this reduction remains unknown as vaccines are purchased in March for the following year. Therefore, counties will not have these vaccines in 2011-12. The DPH is requesting partial funding to restore just the vaccine purchases in order to prevent unnecessary illness and deaths.

Staff Recommendation: Approve as proposed

ISSUE 7: HEALTH CARE SURGE CAPACITY REAPPROPRIATION***May Revise Proposal***

The DPH is requesting reappropriation of \$1.8 million in unspent 2010-11 General Fund dollars, originally appropriated in 2007, for two years to cover storage costs of the Mobile Field Hospitals and medical supplies stockpiles.

Background

In order to increase California's readiness for a natural disaster or other public health emergency, California spent \$166.5 million in 2007 to procure, store and maintain stockpiles of pharmaceuticals, medical supplies and equipment, and mobile field hospitals.

In 2007-08, \$8.5 million was re-appropriated for DPH specifically to store and maintain that stockpile. That re-appropriation expires in FY 10-11 and in January the Governor proposed to not provide the DPH with new General Fund of \$4.1 million that they would need to continue storing and maintaining the stockpile. The Legislature approved of not appropriating new General Fund for this purpose.

The Emergency Medical Services Authority (EMSA) maintains three MFHs in the state, located in the central valley, coastal region and in Southern California. The MFHs consist of approximately 30,000 square feet of tents, hundreds of beds, and sufficient medical supplies to respond to a major disaster in the state, such as a major earthquake in a densely populated area. According to EMSA, to respond effectively to any major disaster it is likely that all three MFHs would be deployed. The 2006 Budget Act allocated \$18 million in one-time funds for the purchase of the MFHs and \$1.7 million in on-going General Fund for the staffing, maintenance, storage, and purchase of pharmaceutical drugs, annual training exercises, and required medical equipment for the MFHs.

The January 2011 Governor's budget eliminated the \$1.7 million in on-going General Fund Support for the MFHs, and the Legislature approved of this reduction. This proposal will enable the state to maintain access to these assets for one additional year, without any additional General Fund. The DPH and EMSA will be using these funds to: 1) transfer responsibility for these assets to alternative public and private entities under arrangements that continue to allow the State of California to benefit from them during a disaster; and 2) cover the remainder of hard lease obligations that continue beyond June 30, 2011.

Staff Recommendation: Approve as proposed

ISSUE 8: NATIONAL BACKGROUND CHECK FEDERAL GRANT***May Revise Proposal***

To implement a federal grant related to criminal background checks, the DPH requests an increase of \$3 million in federal funds expenditure authority over three fiscal years as follows: \$263,000 in 2010-11, \$1.7 million in 2011-12, and \$1 million in 2012-13. A \$1 million state match is required, half of which is to come from existing Licensing & Certification Special Fund monies, and the other half is to be absorbed by existing General Fund resources within the Department of Social Services, which reimburses the DPH for this service.

Background

The DPH is responsible for the oversight of Certified Nurse Assistants, Home Health Aides, direct care staff working in Intermediate Care Facilities, Adult Day Health Care Centers, Home Health Agencies, and Nursing Home Administrators. This oversight includes processing criminal background checks; however, the only database that is reviewed for criminal record clearance is the State Department of Justice criminal history database. The enhancements to the current criminal record clearance process, anticipated as a result of this proposed federal grant, will improve the comprehensiveness of the background check process by adding the FBI check as well as the ability to access other registries and databases for disqualifying information. This will allow the state to identify a criminal history of an individual who has recently moved to California from another state.

Staff Recommendation: Approve as proposed

ISSUE 9: MEDICAL MARIJUANA LOAN REPAYMENT EXTENSION REQUEST***May Revise Proposal***

The DPH requests a loan extension to June 30, 2014, of the repayment deadline for the \$1.5 million loan from the Health Statistics Special Fund (HSSF) to the Medical Marijuana Program (MMP). The proposal entails repaying the loan in amounts of \$0.5 million in 2010-11 and 2011-12 and \$0.25 million in 2012-13 and 2013-14.

Background

SB 420 (Vasconcellos, Chapter 875, Statutes of 2003) required the DPH to establish and maintain a voluntary medical marijuana identification card and registry program for qualified patients and their primary caregivers through county health departments or other county designee. SB 420 also required the MMP to be fully supported through the card application processing fees. The 2004-2005 budget included a \$1.5 million loan from the HSSF to implement the new MMP. It was anticipated that the loan funds would pay for the program for the first 18 months, after which fee revenue would offset program costs and repay the loan. The MMP's Medical Marijuana ID Card is voluntary to patients and the number of cards issues has been much lower than anticipated.

Staff Recommendation: Approve as proposed

ISSUE 10: ELIMINATION OF PUBLIC HEALTH ADVISORY COMMITTEE***May Revise Proposal***

The Governor proposes to eliminate the Public Health Advisory Committee (PHAC), which was established in 2007 to provide expert advice, and recommendations to the Director of the DPH on the development of policies and programs that seek to prevent illness and promote the public's health.

Background

The California Public Health Act of 2006, Chapter 241, Statutes of 2006, (SB 162, Ortiz) established the Public Health Advisory Committee (PHAC) of 15 members -- nine appointed by the Governor, three appointed by the Speaker of the Assembly, and three by the Senate Committee on Rules. The Committee's members represent a broad cross-section of public health stakeholders, including academia, biotechnology, business, community based organizations, emergency services, local government, health departments, medicine, nursing, public health laboratories, social marketing, consumers and other sectors of the public health community such as California-based nonprofit public health organizations and health consumer advocates. Members serve at the pleasure of their appointing authority and are not compensated.

The 15 member committee first convened in April 2008 and identified the work of the national Healthy People 2020 Initiative, a broad set of goals and objectives for the Nation's health, as an opportunity to develop specific goals for California. The Committees final report will be available on the DPH website very soon. The committee is set to expire, per a statutory sunset, on June 30, 2011.

Staff Recommendation: Approve as proposed

4440 DEPARTMENT OF MENTAL HEALTH

ISSUE 1: ELIMINATION OF THE DEPARTMENT OF MENTAL HEALTH

May Revise Proposal

The Governor has proposed to eliminate the Department of Mental Health (DMH), transfer Medi-Cal mental health programs to the Department of Health Care Services, and to create a new Department of State Hospitals to oversee the state's mental hospitals.

Background

This proposal is consistent with the Governor's goal to streamline and minimize state government. In 1991, the Legislature realigned from the State to counties many of the programs and responsibilities formerly managed by the DMH. This year, the Governor's January budget proposed to further realign to counties remaining community mental health services – Mental Health Managed Care (MHMC) and Early Periodic Screening, Diagnosis, and Treatment (EPSDT). The Legislature took the first step in that direction by replacing General Fund in these programs with one-time Mental Health Services Act (Proposition 63) funds, as a bridge to full realignment, which is to be funded with tax revenue. Both of these programs are Medi-Cal programs and therefore the Administration argues that substantial efficiencies will be gained by having all Medi-Cal programs operate through the State's single state Medi-Cal agency – the Department of Health Care Services (DHCS). By moving the MHMC and EPSDT programs to the DHCS, the only responsibility remaining at the DMH would be oversight of the state's mental hospitals.

Oversight of the state mental hospitals has suffered over the past many years, perhaps due to a myriad of contributing factors. In fact, the state hospitals' budget has experienced deficiencies in the current year and last year, totaling approximately \$50 million. The Administration believes that creating a new department that has the singular mission of providing strong oversight and leadership for the state's system of mental hospitals will lead the state to a higher quality system of long-term mental health care, safer and more effective hospitals, increased fiscal accountability, greater cost controls, and other benefits.

Staff Recommendation: Approve proposal and adopt placeholder trailer bill to phase out the DMH during 2011-12

ISSUE 2: TRANSITION RESOURCES FOR STAFF REDUCTIONS RELATED TO THE MHSA***May Revise Proposal***

The DMH is requesting authority to retain 51.0 positions (25.5 PYs) and an additional \$2.3 million in Mental Health Services Fund (Proposition 63) funds to execute a transition plan for the reduction in the DMH's Mental Health Services Act (MHSA) responsibilities enacted by Assembly Bill 100 (Budget trailer bill, Statutes of 2011), and to effectuate a staff reduction plan as a result of the changes to the state administration of the MHSA contained in AB 100. This \$2.3 million (Proposition 63) augmentation is still within the 3.5 percent state administration cap.

Background

The MHSA (Proposition 63) was approved by voters in 2004 to expand mental health services for individuals with severe mental illnesses and disorders and whose service needs were not being met through existing programs. The March 2011 budget package included trailer bill, AB 100, which amended the MHSA in the following ways:

- 1) Reduces the cap on state administrative expenditures from five percent to three and a half percent;
- 2) Requires the State Controller, in place of the DMH, to distribute MHSA funding to the counties; and
- 3) Eliminates the DMH's responsibilities to: a) review and approve the counties' three-year program and expenditure plans; b) provide technical assistance to counties on the development of their mental health plans; c) serve as administrator of the Mental Health Services Fund (MHSF) and as the entity responsible for the distribution of these funds to the counties; and d) regulate the programs funded by the MHSA.

AB 100 reduced DMH's MHSF appropriation from \$34.6 million to \$10.1 million and reduced the number of MHSF-funded positions from 147 to 24. The DMH states that AB 100 preserves provisions of the MHSA that obligate the DMH to continue to provide various MHSA functions for which the DMH is no longer being compensated, including: 1) establishing programs to remedy the shortage of mental health providers; 2) establishing requirements for county three-year plans; 3) contracting with counties for prevention and early intervention programs; and, 4) resolving issues referred to the DMH by the Mental Health Services Oversight and Accountability Commission; and others.

As a result of AB 100, the DMH must develop and implement a staff reduction plan, which must conform to Department of Personnel Administration (DPA) and bargaining unit contract obligations. The DMH states that it will take six to nine months to develop this plan and therefore cannot fully execute the required staff reductions by July 1, 2011. The DMH points out that in addition to DPA and bargaining unit requirements, the DMH must follow state and federal labor laws and compensate employees until the employees are no longer employed by the State of California.

Staff Recommendation: Approve as proposed

ISSUE 3: FISCAL ADJUSTMENTS TO THE MENTAL HEALTH MANAGED CARE PROGRAM***May Revise Proposal***

The DMH requests an increase of \$294,000 (\$148,000 General Fund, \$146,000 Reimbursements (federal funds)) over the Governor's January 2011-12 Budget for the Mental Health Managed Care program (MHMC) to address an increase in costs resulting from an increase in the number of Medi-Cal eligibles.

Background

The MHMC program provides mental health services to Medi-Cal beneficiaries through county mental health plans. Historically, the MHMC program has been funded by a state-federal match, consistent with most of the Medi-Cal program. The Governor's proposed January 2011-12 budget proposed to replace the General Fund in the program with one-time Mental Health Services Act (Proposition 63) funds for 2011-12, and subsequently to realign oversight of the program to counties coupled with new tax revenue as the on-going funding base. Through budget trailer bill, AB 100, the Legislature approved and the Governor signed into law the use of \$183.6 million in Proposition 63 funds for this program for 2011-12.

This request reflects technical adjustments in the MHMC program as a result of an anticipated 0.4 percent growth (30,359 individuals) in Medi-Cal in 2011-12. This request for \$294,000 reflects the following:

- 1) An increase of \$142,000 for psychiatric inpatient services;
- 2) An Increase of \$155,000 for mental health professional services; and,
- 3) A decrease of \$3,000 for the Breast and Cervical Cancer Treatment Program (BCCTP). The DMH provides mental health services to beneficiaries of the BCCTP.

Staff Recommendation: Approve as proposed

ISSUE 4: STATE HOSPITALS CURRENT YEAR DEFICIENCY

May Revise Estimate

The DMH requests a current year (2010-11) increase of \$50 million General Fund for the state hospitals to address a current year deficiency. The May Revise proposes to utilize a Supplemental Appropriations Bill, standard practice for current year deficiencies.

Background

The DMH states that the deficiency has resulted from the following: 1) Roll-over of 2009-10 expenditures to 2010-11; 2) Unachieved furlough savings due to contracted services replacing staff; 3) Increase in overtime to maintain staff-to-patient ratios (due to vacancies and furloughs); 4) Changes in hospital population mix to primarily forensic patients; 5) Increased overtime as a result of redirection of staff to fulfill admissions workload driven by court orders; and, 6) Increased overtime as a result of redirection of staff to respond to safety and security requirements.

Staff Recommendation: Approve as proposed

**ISSUE 5: SEX OFFENDER COMMITMENT PROGRAM REDUCTION & SUNSET
EXTENSION*****May Revise Proposal***

The DMH requests a reduction of \$3.9 million General Fund in 2011-12 for the Sex Offender Commitment Program (SOCP) to reflect an anticipated decrease in evaluations in 2011-12. The May Revise also proposes trailer bill to extend the sunset three years on the DMH's authority to contract with evaluators in place of hiring state staff.

Background

On March 4, 2008, the State Personnel Board (SPB), as a result of a labor relations complaint filed by the American Federation of State, County, and Municipal Employees (AFSCME), ruled that the DMH's Sexually Violent Predator (SVP) evaluator contracts were in violation of State law. SPB's decision required DMH to begin using State psychiatrists and psychologists in lieu of contract evaluators 90 days after the effective date of the decision. In the interest of allowing SVP evaluations to continue uninterrupted while DMH worked to hire State psychiatrists and psychologists, DMH sought legislation allowing an extension of the authorization to hire independent evaluators.

SB 1546 (Runner, Chapter 601, Statutes of 2008) authorized the DMH to contract with independent evaluators to perform initial evaluations of inmates for possible civil commitment as SVPs, until January 1, 2011.

SB 1201 (DeSaulnier, Chapter 710, Statutes of 2010) extended the authorization granted by SB 1546 until January 1, 2012.

According to the DMH, the state requires approximately 70 psychologists and psychiatrists and has been able to hire only 7. The DMH states that this reflects the very small pool of qualified and willing applicants for these state positions.

Without an extension of this sunset date, effective January 1, 2012, DMH will no longer be authorized to contract for independent evaluators to perform initial SVP evaluations. Since DMH has not yet hired a sufficient number of civil service psychiatrists and psychologists to perform evaluations, and does not expect to have done so by the end of calendar year 2011, allowing this authority to expire would endanger public safety by jeopardizing the SVP evaluation process. As created in "Jessica's Law," passed by a voter initiative, the SVP evaluations must be completed within 45 days or else they do not occur.

Staff Recommendation: Approve proposed reduction to the program and adopt trailer bill to extend the sunset

**ISSUE 6: COLEMAN 64 BED VACAVILLE PSYCHIATRIC PROGRAM EXPANSION
FUNDING RESTORATION*****May Revise Proposal***

The DMH is requesting \$1.8 million General Fund to make up the difference between the Governor's January 2011-12 budget proposal of \$7.5 million and the Legislature's approval of \$5.7 million in March 2011.

Background

The California Department of Corrections and Rehabilitation (CDCR) is mandated under the Federal Constitution to provide adequate medical and mental health care to all inmates who need it. The CDCR has been challenged in litigation in the *Coleman* case, which alleged that mental health care provided in CDCR institutions was inadequate because of the inaccessibility of services and insufficient staffing levels to provide needed mental health care. Pursuant to *Coleman v. Schwarzenegger*, a court order was issued requiring the CDCR to develop and submit to the court for approval a plan to provide needed intermediate and acute inpatient mental health care to CDCR inmates who need such care. A second order required the CDCR and the DMH to initiate a second patient assessment for referrals to a higher level of care, which has resulted in a substantial increase in patient referrals that far exceed current inpatient bed capacity. As a result of this increased pressure from the Federal Courts to improve the provision of mental health treatment of inmates, and to increase bed capacity, the CDCR is seeking ways to immediately increase bed capacity for inmates in order to prevent additional Federal Court Orders.

The *Coleman* Court order specifies that the 64-bed high custody Intermediate Treatment Program is to be constructed and activated no later than September 2011. The project has been accelerated and based on the new project time-line, a revised phased-staffing schedule is proposed to meet the timeline.

The DMH states that any funding amount below the originally requested \$7.5 million will have a negative impact on the program's ability to provide the necessary mental health care to inmate-patients.

STAFF COMMENTS

As stated above, the Governor's January 2011 budget included \$7.5 million and the Budget Conference Committee in March adopted the LAO's recommendation to reduce this appropriation by \$1.8 million in light of the fact that it is unrealistic for the department to be able to hire all 80 positions on July 1, 2011. Nevertheless, the \$7.5 million reflects a full year of costs for all 80 positions.

Staff Recommendation: Deny restoration of funds consistent with Conference Committee action in March, 2011

ISSUE 7: PSYCHIATRIC TECHNICIAN TRAINING AND EDUCATION (20/20) PROGRAM***May Revise Proposal***

The DMH is requesting a baseline augmentation of \$250,000 General Fund annually for the 20/20 Training Program.

Background

The Bargaining Unit 18 Collective Bargaining Agreement (CBA), negotiated in 2007, describes the establishment of the 20/20 Training program and designated \$6 million to be encumbered over multiple budget years. The DMH has been sponsoring and training employees in accordance with the CBA and is required to continue its training efforts, despite the fact that the original funding has expired.

Staff Recommendation: Approve as proposed

ISSUE 8: STATE HOSPITALS SAFETY & SECURITY***May Revise Proposal***

The DMH is requesting \$9.5 million General Fund to increase safety and security at the state hospitals, as described below.

Background

In response to increased incidents of significant violence at the state hospitals, a Violence Reduction Summit was held at Napa State Hospital on March 28, 2011. In preparation for this summit, a Safety and Security Analysis was completed by Dr. Barbara McDermott containing data and analysis related to the factors contributing to increased aggression and violence within the state hospitals. Based on this Analysis, the DMH is proposing the following three strategies to address the problem:

1. ***Transfers to CDCR.*** Transfer of 100 patients from state hospitals to CDCR facilities. State law authorizes that when individuals committed to state mental hospitals need treatment under secure conditions that can be better provided within CDCR, they may be transferred as such. This solution has no new costs or savings associated with it.
2. ***Grounds Presence Teams (GPTs).*** The use of GPTs will be utilized at Napa and Metropolitan State Hospitals. GPTs would be comprised of psychiatric technicians who would be responsible for direct supervision of patients throughout the “secure treatment areas.” They would supplement hospital police officers during emergencies and patrol the campus grounds. They would provide crisis intervention, detection of safety and security issues, redirect inappropriate activities or behavior, monitor all individuals entering and exiting the facility, perform periodic searches throughout the grounds, and implement and oversee health and safety procedures. The cost for the GPTs is \$2.2 million and the May Revise requests approval of 28 new positions to create the GPTs.
3. ***Grounds Safety Teams (GSTs).*** GSTs are comprised of hospital police officers (HPOs) who report directly to the Chief of Police. GSTs respond to safety issues, including reports of suspected contraband. The May Revise requests \$3.2 million and 50 new positions for GSTs at Napa, Metropolitan and Patton State Hospitals.
4. ***Personal Alarms.*** The DMH states that the current personal alarm systems at Napa State hospital are ineffective in certain areas of the facility, and cannot be enhanced or modified, as the manufacturer no longer makes the alarm pens in use. The DMH is proposing a pilot project to test the effectiveness of a new personal alarm system at Napa State Hospital at a cost of \$4.1 million.

LAO

The LAO recommends that the Legislature approve the 78 positions being requested, but reduce funding by \$1.1 million General Fund (25 percent salary savings rate) to more accurately reflect the rate at which the positions are likely to be filled in the budget year.

Staff Recommendation: Approve as proposed

ISSUE 9: STOCKTON HEALTHCARE FACILITY***May Revise Proposal***

The DMH requests an augmentation of \$1.4 million General Fund and 8 positions to support the provision of acute and intermediate in-patient mental health treatment services to CDCR inmate patients and to operate 475 inpatient beds in the Stockton Healthcare Facility.

Background

In the August 2007 Supplemental Bed Plan, the *Coleman* Court assigned DMH the responsibility of mentoring and training CDCR staff to provide acute and intermediate care mental health services at the CHCF. This proposal would transfer to DMH the ongoing responsibility for the provision of acute and intermediate mental health care to CDCR inmate-patients, thereby eliminating the need for a multi-year training and mentoring of CDCR staff. The Supplemental Bed Plan expressed concerns about the potential length of time for this project, which this proposal would address, as the DMH states that it already has the required training and expertise.

Staff Recommendation: Approve as proposed

4120 EMERGENCY MEDICAL SERVICES AUTHORITY

ISSUE 1: ELIMINATION OF COMMISSION ON EMERGENCY MEDICAL SERVICES

May Revise Proposal

The Governor is proposing to eliminate the Commission on Emergency Medical Services, which is an advisory body to the Emergency Medical Services Authority (EMSA). This elimination will result in \$38,000 total funds savings (\$9,000 General Fund).

Background

The Commission on EMS was created through legislation in 1981 to review and approve regulations and guidelines developed by the EMSA, and advise the EMSA on various emergency medical services issues. Additionally, the Commission may hear an appeal by a local EMS agency regarding a local EMS plan.

The Commission consists of 18 seats specified as to qualifications. Three Commissioners are appointed by the Senate Rules Committee, three are appointed by the Speaker of the Assembly, and 12 are appointed by the Governor. The Commission consists of representatives of the California Healthcare Association, California Fire Chief's Association, California Peace Officers Association, California State Firefighter's Association, EMS Administrators Association, California Emergency Nurses Association, EMS Medical Directors Association of California, California Conference of Local Health Officers, Department of Forestry and Fire Protection, California Rescue and Paramedic Association, California Medical Association, California Chapter American College of Emergency Physicians, California Chapter American College of Surgeons, California Ambulance Association, City/County or Special District Fire Protection, and two public members. Commission service is uncompensated aside from reimbursement of actual costs.

The Administration states that eliminating the Commission would result in \$38,000 per year in savings from a variety of funding sources, including \$9,000 from the General Fund. Additionally, it would reduce the workload associated with preparing quarterly reports on EMSA activities prior to each Commission meeting and the cost of staff travel to Commission meetings, which are held throughout the state.

STAFF COMMENTS

The Commission is comprised of a broad range of experience and expertise in emergency medical services, and operates at very minimal cost. Some stakeholders have communicated to the Subcommittee that they view the Commission to be a tremendously valuable resource to the state. The Commission's responsibility for approving regulations proposed by EMSA is unique. The Subcommittee may wish to defer this proposal to the policy committees for a more thorough analysis.

Staff Recommendation: Defer without prejudice to the policy process

4140 OFFICE OF STATEWIDE HEALTH PLANNING & DEVELOPMENT

ISSUE 1: SB 90 IMPLEMENTATION RESOURCES REQUEST

May Revise Proposal

The Office of Statewide Health Planning and Development (OSHPD) requests increased expenditure authority of \$746,000 in 2011-12 and \$706,000 in 2012-13, from the Hospital Building Fund, and approval of 5, 2-year limited-term positions to implement SB 90 (Chapter 19, Statutes of 2011), which extended hospital seismic safety deadlines for qualifying hospitals. The OSHPD requests two senior structural engineers, two senior architects, and one office technician to respond to the anticipated increased workload.

Background

The Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 established a seismic safety building standards program under OSHPD's jurisdiction for hospitals built on or after March 7, 1973. Numerous pieces of legislation since then have amended the Alquist Act, by increasing OSHPD responsibilities and modifying seismic safety deadlines for hospitals. Most recently, SB 90 sought to respond to the fiscal challenges facing many hospitals and the resulting difficulty for them to meet the current seismic deadline of 2013, thereby facing the real possibility of closure. SB 90 authorizes OSHPD to grant hospitals an extension of up to seven years beyond the 2013 deadline if specific milestones and public safety conditions are met. The additional time allotment will provide some hospitals with more opportunity and flexibility to obtain the financing needed to complete seismic safety projects, thereby avoiding hospital closures, and maximizing access to healthcare services.

According to OSHPD, historically the department's workload increases immediately following seismic deadline extensions. Therefore, as has occurred with previous extension legislation, OSHPD states that its workload decreased during the current fiscal year, and is now projected to increase in the next fiscal year as a result of SB 90. The OSHPD states that this increased workload cannot be absorbed by existing resources and if required to do so, this would further increase already impacted and lengthy plan review time, consequently postponing new and retrofit hospital construction projects. The extension requests must be reviewed in a short time frame in order for hospitals to meet existing deadlines.

Staff Recommendation: Approve as proposed

ISSUE 2: ELIMINATION OF CALIFORNIA HEALTH POLICY AND DATA ADVISORY COMMISSION***May Revise Proposal***

The Governor proposes to eliminate the California Health Policy and Data Advisory Commission (CHPDAC). The total current budget is 1.8 PY and \$274K from the California Health Data and Planning Fund (Data Fund). The proposed 2011-12 savings assumed effective 1/1/2012 are \$85,000 and .5 PY, ongoing \$170,000 (special funds) and .9 PY. OSHPD proposes to retain .9 PY and \$104K ongoing, funded from the Data Fund to redirect and perform workload assumed from the CHPDAC and California Health Workforce Policy Commission.

Background

The 13-member CHPDAC was established in 1986 to advise the Director of the Office of Statewide Health Planning and Development (OSHPD) regarding the collection and reporting of healthcare data, such as publishing data summaries, selecting data elements for the production of healthcare outcome reports, and about related proposed regulations prior to Office of Administrative Law review. CHPDAC is also charged with hearing appeals brought by healthcare facilities that have not met healthcare data reporting requirements. The chair of the CHPDAC is authorized to appoint a 12-member Technical Advisory Committee (TAC) to advise the CHPDAC on the technical aspects of its duties. CHPDAC and TAC members include representatives of health plans, hospitals, physicians, long-term care, ambulatory surgery clinics, a business coalition, healthcare consumers, labor, and nurses. The CHPDAC meets every two months, and the TAC meets upon the request of the OSHPD Director.

According to the OSHPD, this elimination is consistent with the Governor's efforts to realign government and focus on core functions to meet the public's needs. The OSHPD states that a review of CHPDAC meetings from 2006 shows a pattern of sporadic productivity. The CHPDAC's advisory role is related to the collection and reporting of health data and was created in the mid-1980s when the health data collection field was relatively new. Since then, health data collection and related health reporting has matured and become routine for the Office. The CHPDAC and TAC functions are redundant to the regulatory promulgation process overseen by the Office of Administrative Law, or may be performed by OSHPD staff or through the OSHPD Director convening workgroups as necessary with stakeholders selected for their specific knowledge or expertise.

Staff Recommendation: Approve as proposed

ISSUE 3: ELIMINATION OF CALIFORNIA HEALTHCARE WORKFORCE POLICY COMMISSION***May Revise Proposal***

The Governor proposes to eliminate the California Healthcare Workforce Policy Commission (Commission). This proposal assumes no savings. The annual cost to operate the Commission is \$27K (including per diem, travel, general expense, postage, etc.). OSHPD proposes to retain this funding in order to convene subject matter experts and stakeholder meetings as needed for OSHPD to develop policy recommendations affecting the Song-Brown program and to provide subject matter experts to assist staff in reviewing and scoring applications for Song-Brown Program funding. The \$27K will be used to cover the expenditures associated with convening these groups, including travel reimbursement, postage, printing, general expenses, etc.

Background

The 15-member Commission appointed by the Governor, the Assembly Speaker, and the Senate Rules Committee was established in 1974 to provide the OSHPD Director with policy and program recommendations for Song-Brown Programs administered through the Song-Brown Health Care Workforce Training Act. The Song-Brown Program supports students and residents of family practice residency programs, family nurse practitioner and physician assistant training programs, and registered nurse education programs by providing them with clinical training opportunities in medically underserved areas and communities. The Commission meets four times per year and makes recommendations for Song-Brown awards totaling over \$6.7 million.

The OSHPD states that the Commission's functions and responsibilities, including reviewing and recommending Song-Brown applications and awards and identifying California areas of unmet need for physicians, dentists, nurses, and mental health providers, can be performed by existing OSHPD staff within the Healthcare Workforce Development Division.

Staff Recommendation: Approve as proposed

ISSUE 4: ELIMINATION OF CALIFORNIA HEALTHCARE RURAL HEALTH POLICY COUNCIL***May Revise Proposal***

The Governor proposes to eliminate the California Healthcare Rural Health Policy Commission (RHPC) and assumes no savings from this proposal.

Background

The RHPC was created in 1996 to coordinate rural health policy development and to disburse grants for rural health projects. The RHPC is comprised of representatives from several state departments, including the Department of Mental Health, Emergency Medical Services Authority, and the Department of Health Care Services, among others, and is housed within the OSHPD. The RHPC holds public meetings to elicit testimony from rural constituents on a variety of rural health issues and to report to the public on state department rural health related activities. The RHPC last met in the fall of 2010.

The Administration states that the Governor does not need a statutory scheme to convene department heads for purposes of developing and coordinating rural health policy, and also points out that no grant funding has been available for several years; future grants could be disbursed through OSHPD.

This proposal assumes no savings. While the council is proposed to be eliminated, work performed by the staff in support of rural health stakeholders and issues will be retained. OSHPD will continue to serve as a resource to rural healthcare stakeholders and maintain its rural healthcare resource website to include its free Rural Health Care Job Posting service and funding opportunities. The May Revise proposes to retain .8 PY and \$85K funded from the Data Fund.

Staff Recommendation: Approve as proposed
